

Remarks

Claims 1-18 are pending in the present application. Claim 1 is amended to recite that the compositions are sprayable. This amendment is supported by the present specification, for example, at page 1, line 12. Claims 4 and 17 are incorporated into claim 1. The specific rheology control agents added into claim 1 are supported by the present specification, for example, at page 6, lines 1-8. Entry of the foregoing amendments and reconsideration are respectfully requested.

At page 2 of the Office Action, the Examiner objected to claims 4-7, 9, 10 and 12-18 as being in improper multiple dependent form. Applicants have amended the claims herein to overcome this issue. Withdrawal is requested.

At page 2 of the Office Action, the Examiner objected to claim 1 because “Pa s” appears incorrect to the Examiner. It is believed that the foregoing amendment to the claims overcomes this objection. Withdrawal is requested.

At page 2 of the Office Action, the Examiner objected to claim 4. Claim 4 is cancelled herein.

At pages 3-12 of the Office Action, the Examiner issued the following rejections: (i) claims 1-18 under 35 USC § 103 as being unpatentable over Jose; (ii) claims 1-18 under 35 USC § 103 as being unpatentable over Pflucker; (iii) claims 1-18 under 35 USC § 103 as being unpatentable over Wang in view of the ‘706 Patent; and (iv) claims 1-18 under 35 USC § 103 as being unpatentable over Tanner in view of the ‘706 Patent.

The Examiner’s position is set forth in the Office Action and will not be repeated in detail here.

Applicants respectfully traverse the foregoing rejections and respectfully request reconsideration thereof.

As amended, the present claims are directed to a sprayable composition comprising a cosmetic agent or mixture of cosmetic agents, an emulsifier, a rheology control agent and 55-80 wt% of water, wherein the cosmetic agent is selected from sunscreen agents, self-tanning agents, depilatories, exfoliating agents and mixtures thereof and the composition has a viscosity at high

shear of 120 Pa-s or less. The rheology control agent of the present claims, as amended, comprises coprocessed microcrystalline cellulose and at least one of carboxymethylcellulose, sodium salts of carboxymethylcellulose, xanthan gum, carrageenans, alginates, hydroxypropylmethyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, acrylic acid, starch, surfactants, attriting agents and bulking agents, wherein the microcrystalline cellulose has an average particle size of 50 microns or less.

None of the prior art, alone or in any combination, discloses or suggests the presently claimed sprayable composition comprising a rheology control agent comprising microcrystalline cellulose that is coprocessed with at least one of carboxymethylcellulose, sodium salts of carboxymethylcellulose, xanthan gum, carrageenans, alginates, hydroxypropylmethyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, acrylic acid, starch, surfactants, attriting agents and bulking agents or the benefits obtained thereby.

Jose is directed to long lasting color cosmetic compositions containing an organic oil and a specific silicone mixture. The composition may be a lipstick, blush, eye shadow, foundation, concealer or the like (col. 1, lines 57-59). Jose discloses microcrystalline cellulose as particulate material (col. 7), but does not provide any disclosure or suggestion of a rheology control agent in a sprayable composition comprising microcrystalline cellulose coprocessed with the added materials in claim 1. Moreover, there is no disclosure or suggestion in Jose that the composition disclosed therein would be useful as a sprayable composition.

Pflucker is directed to a sunscreen composition that addresses the needs of formulations having high SPF by encapsulating organic sunscreens. Pflucker discloses microcrystalline cellulose as a carrier, but does not provide any disclosure or suggestion of a rheology control agent comprising microcrystalline cellulose coprocessed with the added materials in claim 1. The Examiner appears to argue at page 6 of the Office Action that the microcrystalline cellulose “of the prior art” would also be co-processed, but does not offer a single reference in support of this position. Nothing in Pflucker discloses or suggests the use of the presently claimed coprocessed rheology control agent in a sprayable composition as in the present invention.

Wang is directed to a gelled cosmetic emulsion comprising an oil phase, an aqueous phase and a gelling system which contains at least one non-siloxane based polyamide in a

sufficient amount to gel the emulsion. The emulsions are used in lipstick and mascara products as well as other gel and stick products (Abstract). Wang does not disclose the use of microcrystalline cellulose, so the Examiner turns to the '706 Patent for this disclosure. Nothing in Wang discloses or suggests a sprayable composition or a rheology control agent comprising microcrystalline cellulose coprocessed with the added materials in claim 1. Furthermore, the '706 Patent is directed to cosmetic preparations comprising microcrystalline cellulose. However, nothing in the '706 Patent discloses or suggests a rheology control agent in a sprayable composition comprising microcrystalline cellulose that is coprocessed with the added materials in claim 1.

Tanner is directed to sunscreen compositions comprising an emulsion having at least one oil phase containing a UVA-absorbing dibenzoylmethane sunscreen active, at least one aqueous phase comprising a formaldehyde donor preservative and an emulsifier (col. 2). As with Wang, Tanner does not disclose the use of microcrystalline cellulose, so the Examiner turns to the '706 Patent for this disclosure. However, nothing in Tanner discloses or suggests a rheology control agent comprising microcrystalline cellulose coprocessed with the added materials in claim 1. Furthermore, as noted above, nothing in the '706 Patent discloses or suggests a rheology control agent in a sprayable composition comprising microcrystalline cellulose that is coprocessed with the added materials in claim 1.

The Examiner argues throughout the Office Action that spraying the composition “does not impart patentability to the claims” because this is a matter of “routine practice” (Office Action, page 4) and various amounts, ranges and viscosity levels are obtained through “routine” experimentation (Office Action, page 8). Applicants disagree with the Examiner’s assertions regarding the level of skill in the field of sprayable compositions.

As amended, the claims are directed to sprayable compositions that have been found to produce a fine mist that deposits evenly on the skin with no dripping or aggregate formation and which also does not sag or flow (see the present specification at page 4). Applicants explain that the ability of pump-driven delivery systems to effectively deliver a cosmetic composition as a finely divided spray is critically dependent upon the rheology of the cosmetic composition, particularly, its stability in the container, viscosity at the exit port of the spray pump and

properties on the skin (see page 2 of the present specification). For example, Applicants note that sunscreen compositions are typically emulsion systems, and that, in order to improve the water resistance of such compositions, an emulsion that is stable in the container, but that breaks down rapidly on shearing is desired (see page 3 of the present specification). If the original emulsion is stable to shear at the exit port, the oil layer will be re-emulsified on wetting of the skin and will be washed off resulting in poor performance (see the present specification at page 3). However, if the original emulsion is unstable to shear at the exit port, it will break down on spreading and will not be re-emulsified when the skin becomes wet and thus desirably remain on the skin (see page 3 of the present specification). Thus, a sprayable sunscreen, self tanning composition, etc., that is sufficiently stable in the container, but strikes the appropriate balance so as to be rendered unstable upon shearing and delivers a fine mist without the tendency to drip is highly desired. Moreover, it is noted that emulsions unstable to shear generally require the use of an emulsifier, but the use of an emulsifier has produced storage stability problems of the emulsion. Applicants have found that the sprayable cosmetic compositions of the present invention strike the appropriate balance and remain stable during storage in the container, are sufficiently unstable under shear at the exit port, and have sufficient viscosity to effectively deliver a fine mist that will desirably resist the tendency to drip (see the Examples).

None of the art cited by the Examiner, alone or in any combination, suggests that the presently claimed invention would strike the appropriate balance and solve the problems associated with such sprayable compositions.

Applicants respectfully submit that the presently claimed invention is unobvious and patentable over the cited art. Accordingly, withdrawal of the rejection is respectfully requested.

Early, favorable action is earnestly solicited. The Examiner is invited to phone Applicants' attorney if it is believed that a telephonic or personal interview would expedite prosecution of the application.

Respectfully submitted,

/Paul A. Fair, Reg. No. 35,866/
Paul A. Fair, Esq.
Reg. No. 35,866

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FMC Corporation
Patent Administrator
1735 Market Street
Philadelphia, Pennsylvania 19103

Phone: 215-299-6723
FAX: 215-299-6984